

**E-FILED on 9/15/2011**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MICHELLE GAZAVE,  
Plaintiff,

v.

DAVID YOMTOV; DAVID GAZAVE,  
Defendants.

No. C 11-03070 RMW

ORDER DENYING APPLICATION TO  
PROCEED *IN FORMA PAUPERIS* AND  
DISMISSING ACTION

[Re Docket No. 2]

Plaintiff Michelle Gazave ("Gazave") applies to proceed *in forma pauperis*. The court has reviewed the report and recommendation of Magistrate Judge Llyod. The court agrees with the recommendation. Although plaintiff's application indicates that her assets and income are insufficient to enable her to prosecute this action, her complaint states only that plaintiff seeks relief for "violation of alimony and the state of community division (property)," and that certain assets were not properly divided under state law. The domestic relations exception to federal subject matter jurisdiction "divests the federal courts of power to issue divorce, alimony and child custody decrees." *Ankenbrandt v. Richards*, 504 U.S. 689, 703 (1992). The jurisdictional deficiencies in the complaint cannot be resolved by amendment. The application to proceed *in forma pauperis* is denied, and the action is dismissed for lack of subject matter jurisdiction.

**United States District Court**  
For the Northern District of California

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DATED: 9/15/2011



RONALD M. WHYTE

United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MICHELLE GAZAVE,  
Plaintiff,

Case Number: CV11-03070 RMW

**CERTIFICATE OF SERVICE**

v.

DAVID YOMTOV et al,  
Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 15, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michelle Gazave  
207 Pecan Grove Court  
San Jose, CA 95137

Dated: September 15, 2011

Richard W. Wieking, Clerk  
By: Jackie Lynn Garcia, Deputy Clerk